

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-24746-2023
Date of decision : 16.05.2023

Sandeep Petitioner

V/S

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Udit Mendiratta, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

1. The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.11 dated 12.01.2018 registered under Sections 147, 186, 353 and 341 of the Indian Penal Code, 1860 at Police Station Sector-5, Panchkula.
2. Brief facts of the case are that the petitioner along with his co-accused was granted bail by the trial Court. Vide order dated 01.12.2018 passed by the trial Court, they were charge-sheeted by the trial Court under Sections 147, 353, 186, 341 read with Section 149 of the IPC and the case was posted for prosecution evidence for 13.12.2018. On 13.12.2018, the petitioner was absented before the trial Court and non-bailable warrant of arrest was issued against him. The petitioner was granted anticipatory bail by learned Sessions Judge Panchkula vide order dated 21.01.2019. However, the petitioner again

not appeared before the trial Court on 20.03.2023. Consequently, his bail was cancelled and warrant of arrest was issued against him for 15.05.2023.

3. Learned counsel for the petitioner, inter alia, contends that earlier, the petitioner regularly appearing before the trial Court but he could not appear before the trial Court on 20.03.2023 as he had noted down the wrong date of hearing. The non-appearance of the petitioner is neither willful nor intentional. The petitioner is ready to appear before the trial Court. Therefore, the present petition may be allowed.

4. Notice of motion.

5. On the asking of the Court, Mr. Munish Sharma, D.A.G., Haryana, who is present in the Court, has accepted notice on behalf of the respondent-State and vehemently opposed the present petition.

6. I have heard learned counsel for the petitioner as well as learned State counsel and gone through the paper-book.

7. Perusal of the file shows that no sufficient reason has been given by the petitioner for his non-appearance before the Trial Court. Earlier, the petitioner was granted bail by the trial Court and on his absence before the trial Court, non-bailable warrant of arrest was issued against him on 13.12.2018. Thereafter, he applied for anticipatory bail which was allowed by learned Sessions Judge Panchkula vide order dated 21.01.2019. Now, the petitioner again not appeared before the trial Court on 20.03.2023. Consequently, his bail was cancelled and warrant of arrest was issued against him. It is settled proposition of law that

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when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant in terms of Section 82 of the Cr.P.C, he is not entitled to the relief of anticipatory bail. This view of mine is fortified by the judgment of the Hon'ble Supreme Court in case *State of M.P. Vs. Pradeep Sharma : 2014 (1) RCR (Criminal) 269*.

8. In view of the above and keeping in view the nature of averment and conduct of the petitioner, I do not deem it fit to extend the concession of anticipatory bail to the petitioner.

9. Dismissed.

16.05.2023
Kothiyal

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No